

As claimant's counsel points out, there are inconsistencies in Ms. Melius' testimony. After testifying that claimant did not assist her with any lifting, she later testified claimant did assist with another patient named Daisy. But Ms. Melius consistently testified claimant did not assist with Mr. Thomas. Ms. Melius testified that Mr. Thomas was quite heavy, and

they had a special apparatus to assist with lifting him. Claimant testified she did not know whether there was special equipment to assist with Mr. Thomas.

The Board generally defers to the ALJ's evaluation of the credibility of witnesses who testify before the ALJ. In this case, claimant testified before the ALJ. Several other witnesses, including Ms. Melius, testified by deposition. The ALJ did not believe claimant's version of the events. Giving some weight to the ALJ's evaluation of credibility and considering other testimony inconsistent with claimant's testimony, the Board agrees with and affirms the Order by the ALJ denying preliminary hearing benefits.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order entered by Administrative Law Judge Bruce E. Moore on March 23, 2000, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 2000.

BOARD MEMBER

c: Jeffrey E. King, Salina, KS
James M. McVay, Great Bend, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director